

1 Stephen M. Doniger (SBN 179314)  
2 stephen@donigerlawfirm.com  
3 Scott A. Burroughs (SBN 235718)  
4 scott@donigerlawfirm.com  
5 Howard S. Han (SBN 243406)  
6 hhan@donigerlawfirm.com  
7 DONIGER / BURROUGHS  
8 603 Rose Avenue  
9 Venice California 90291  
10 Telephone: (310) 590-1820

11 Attorneys for Plaintiff

12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 STAR FABRICS, INC., a California  
15 Corporation,

16 Plaintiff,

17 v.

18 MODNIQUE, a business entity of form  
19 unknown; MODDEALS.COM, a business  
20 entity of form unknown; MODCLOTH,  
21 INC., a California Corporation; TP  
22 OUTFITTERS, INC., a California  
23 Corporation; and DOES 1 through 10,

24 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR  
COPYRIGHT INFRINGEMENT

Jury Trial Demanded

25 Star Fabrics, Inc., by and through its undersigned attorneys, hereby prays to  
26 this honorable Court for relief based on the following:  
27  
28

**JURISDICTION AND VENUE**

1  
2 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101  
3 *et seq.*

4 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and  
5 1338 (a) and (b).

6 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and  
7 1400(a) in that this is the judicial district in which a substantial part of the acts and  
8 omissions giving rise to the claims occurred.

9 **PARTIES**

10 4. Plaintiff STAR FABRICS, INC. is a corporation organized and existing  
11 under the laws of the State of California with its principal place of business located  
12 at 1440 East Walnut Street, Los Angeles, California 90011.

13 5. Plaintiff is informed and believes and thereon alleges that Defendant  
14 MODNIQUE is a business entity of form unknown, with its principal place of  
15 business located at 12901 Coral Tree Place, Los Angeles, California 90066.

16 6. Plaintiff is informed and believes and thereon alleges that Defendant  
17 MODDEALS.COM (“MODDEALS”) is a business entity of form unknown with its  
18 principal place of business located 3515 Main Street, Suite 201, Chula Vista,  
19 California 91911.

20 7. Plaintiff is informed and believes and thereon alleges that MODCLOTH,  
21 INC. (“MODCLOTH”) is a corporation organized and existing under the laws of the  
22 state of California, with its principal place of business located at 115 Sansome Street,  
23 9<sup>th</sup> Floor, San Francisco, California 94104.

24 8. Plaintiff is informed and believes and thereon alleges that TP  
25 OUTFITTERS, INC. (“TP OUTFITTERS”) is a corporation organized and existing  
26 under the laws of the state of California, with its principal place of business located  
27 at 754 East Pico Blvd., Los Angeles, California 90021.

1           9. Plaintiff is informed and believes and thereon alleges that Defendants  
2 DOES 1 through 10, inclusive, are other parties not yet identified who have infringed  
3 Plaintiff's copyrights, have contributed to the infringement of Plaintiff's copyrights,  
4 or have engaged in one or more of the wrongful practices alleged herein. The true  
5 names, whether corporate, individual or otherwise, of Defendants 1 through 10,  
6 inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants  
7 by such fictitious names, and will seek leave to amend this Complaint to show their  
8 true names and capacities when same have been ascertained.

9           10. Plaintiff is informed and believes and thereon alleges that at all times  
10 relevant hereto each of the Defendants was the agent, affiliate, officer, director,  
11 manager, principal, alter-ego, and/or employee of the remaining Defendants and was  
12 at all times acting within the scope of such agency, affiliation, alter-ego relationship  
13 and/or employment; and actively participated in or subsequently ratified and/or  
14 adopted each of the acts or conduct alleged, with full knowledge of all the facts and  
15 circumstances, including, but not limited to, full knowledge of each violation of  
16 Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

17                           **CLAIMS RELATED TO DESIGN NO. 62261**

18           11. Plaintiff owns an original two-dimensional artwork used for purposes of  
19 textile printing entitled 62261 ("Subject Design A") which has been registered with  
20 the United States Copyright Office.

21           12. Prior to the acts complained of herein, Plaintiff widely disseminated fabric  
22 bearing Subject Design A to numerous parties in the fashion and apparel industries.

23           13. Plaintiff is informed and believes and thereon alleges that following its  
24 distribution of Subject Design A, MODNIQUE, DOE Defendants, and each of them  
25 distributed and/or sold fabric and/or garments featuring a design which is  
26 substantially similar to Subject Design A (hereinafter "Subject Product A") without  
27 Plaintiff's authorization, including but not limited to products sold by MODNIQUE

1 under Item Nos. 01744486, 01744535, 01744534, 01744506, 01744507, and bearing  
2 the label “NIZA.”

3 14. An image of Subject Design A and an exemplar of Subject Product A are  
4 set forth hereinbelow:

5 **Subject Design A**



**Subject Product A**



17  
18 **CLAIMS RELATED TO DESIGN NO. 63084**

19 15. Plaintiff owns an original two-dimensional artwork used for purposes of  
20 textile printing entitled 63084 (“Subject Design B”) which has been registered with  
21 the United States Copyright Office.

22 16. Prior to the acts complained of herein, Plaintiff widely disseminated fabric  
23 bearing Subject Design B to numerous parties in the fashion and apparel industries.

24 17. Plaintiff is informed and believes and thereon alleges that following its  
25 distribution of Subject Design B, MODDEALS, DOE Defendants, and each of them,  
26 manufactured, distributed, and/or sold fabric and/or garments comprised of fabric  
27 featuring a design which is identical, or substantially similar, to Subject Design B



(hereinafter “Subject Product B”) without Plaintiff’s authorization, including but not limited to products sold by MODDEALS, under SKU 6-22232-63301-8, and bearing the label “MIIN”.

18. An image of Subject Design B and an exemplar of Subject Product B are set forth hereinbelow:

**Subject Design B**



**Subject Product B**



**CLAIMS RELATED TO DESIGN NO. 63773**

19. Plaintiff owns an original two-dimensional artwork used for purposes of textile printing entitled 63773 (“Subject Design C”) which has been registered with the United States Copyright Office.

20. Prior to the acts complained of herein, Plaintiff sampled and sold fabric bearing Subject Design C to numerous parties in the fashion and apparel industries.

21. Plaintiff is informed and believes and thereon alleges that following this distribution of product bearing Subject Design C, MODCLOTH, and DOE Defendants, and each of them, manufactured, distributed, and/or sold fabric and/or garments comprised of fabric featuring a design which is identical, or substantially

1 similar, to Subject Design C (hereinafter “Subject Product C”) without Plaintiff’s  
2 authorization, including but not limited to products sold by MODCLOTH under  
3 Style No. C3802, and bearing the label “Cutie.”

4 22. An image of Subject Design C and an exemplar of Subject Product C are set  
5 forth hereinbelow:

6 **Subject Design C**



**Subject Product C**



18 **CLAIMS RELATED TO DESIGN NO. 65419**

19 23. Plaintiff owns an original two-dimensional artwork used for purposes of  
20 textile printing entitled 65419 (“Subject Design D”) which has been registered with  
21 the United States Copyright Office.

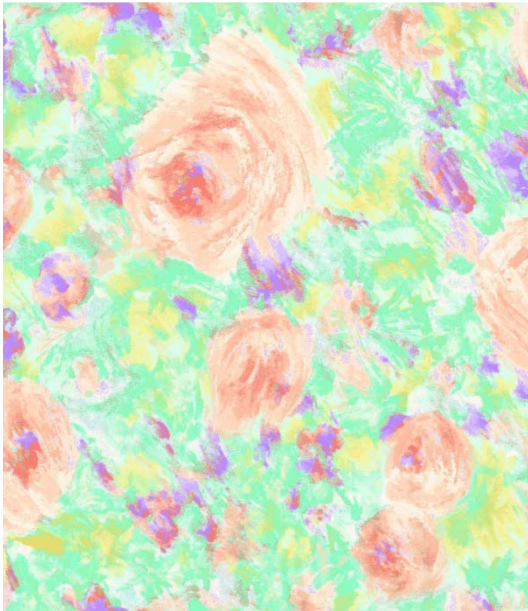
22 24. Prior to the acts complained of herein, Plaintiff sampled and sold fabric  
23 bearing Subject Design D to numerous parties in the fashion and apparel industries.

24 25. Plaintiff is informed and believes and thereon alleges that following this  
25 distribution of product bearing Subject Design D, MODCLOTH, TP OUTFITTERS,  
26 and DOE Defendants, and each of them, manufactured, distributed, and/or sold  
27 fabric and/or garments comprised of fabric featuring a design which is identical, or  
28

1 substantially similar, to Subject Design D (hereinafter “Subject Product D”) without  
2 Plaintiff’s authorization, including but not limited to products sold by MODCLOTH,  
3 bearing the label “Esley” and RN 112835, indicating that it was manufactured by or  
4 for TP OUTFITTERS.

5 26. An image of Subject Design D and an exemplar of Subject Product D are  
6 set forth hereinbelow:

7 **Subject Design D**



**Subject Product D**



18  
19  
20 **FIRST CLAIM FOR RELIEF**

21 (For Copyright Infringement - Against All Defendants, and Each)

22 27. Plaintiff repeats, realleges and incorporates herein by reference as though  
23 fully set forth the allegations contained in the preceding paragraphs of this  
24 Complaint.

25 28. Plaintiff is informed and believes and thereon alleges that Defendants, and  
26 each of them, had access to Subject Designs A, B, C, and D (collectively, “Subject  
27 Designs”), including, without limitation, through (a) access to Plaintiff’s showroom  
28



1 and/or design library; (b) access to illegally distributed copies of Subject Designs by  
2 third-party vendors and/or DOE Defendants, including without limitation  
3 international and/or overseas converters and printing mills; (c) access to Plaintiff's  
4 strike-offs and samples, and (d) access to garments in the marketplace manufactured  
5 with lawfully printed fabric bearing Subject Designs.

6 29. Plaintiff is informed and believes and thereon alleges that one or more of  
7 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is  
8 further informed and believes and thereon alleges that said Defendant(s), and each of  
9 them, has an ongoing business relationship with Defendant retailers, and each of  
10 them, and supplied garments to said retailers, which garments infringed Subject  
11 Designs in that said garments were composed of fabric which featured unauthorized  
12 print designs that were identical or substantially similar to Subject Designs, or were  
13 an illegal modification thereof.

14 30. Plaintiff is informed and believes and thereon alleges that Defendants, and  
15 each of them, infringed Plaintiff's copyright by creating, making and/or developing  
16 directly infringing and/or derivative works from Subject Designs and by producing,  
17 distributing and/or selling Subject Products through a nationwide network of retail  
18 stores, catalogues, and through on-line websites.

19 31. Due to Defendants', and each of their, acts of infringement, Plaintiff has  
20 suffered damages in an amount to be established at trial.

21 32. Due to Defendants', and each of their, acts of copyright infringement as  
22 alleged herein, Defendants, and each of them, have obtained profits they would not  
23 otherwise have realized but for their infringement of Subject Designs. As such,  
24 Plaintiff is entitled to disgorgement of Defendants', and each of their, profits  
25 attributable to the infringement of Subject Designs in an amount to be established at  
26 trial.



33. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed copyright infringement with actual or constructive knowledge of Plaintiff's rights such that said acts of copyright infringement were, and continue to be, willful, intentional and malicious.

**PRAYER FOR RELIEF**

Wherefore, Plaintiff prays for judgment as follows:

- a. That Defendants—each of them—and their respective agents and servants be enjoined from importing, manufacturing, distributing, offering for sale, selling or otherwise trafficking in any product that infringes Plaintiff's copyrights in Subject Designs;
- b. That Plaintiff be awarded all profits of Defendants, and each of them, plus all losses of Plaintiff, the exact sum to be proven at the time of trial, or, if elected before final judgment, statutory damages as available under the Copyright Act, 17 U.S.C. § 101 et seq.;
- c. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act U.S.C. § 101 et seq.;
- d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- e. That Plaintiff be awarded the costs of this action; and
- f. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P. 38 and the 7<sup>th</sup> Amendment to the United States Constitution.

Dated: November 25, 2015

DONIGER/BURROUGHS

By: /s/ Stephen M. Doniger  
Stephen M. Doniger, Esq.  
Howard S. Han, Esq.  
Attorneys for Plaintiff